

### **The Withdrawn Claims**

Another issue outstanding in this application is the withdrawal of several claims from consideration.

The articles of the withdrawn product claims are combinations of the product of the prosecuted claims, i.e., the claimed molded element, and other components. As such, it is respectfully submitted that the molded element and other components are related as subcombination-combination. Since they are related as combination-subcombination, the standard for requiring restriction herein is not met.

In order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated. To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e. separate classification, status, or field of search. See MPEP §808.02. If it can be shown that a combination, as claimed

(1) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and

(2) the subcombination can be shown to have utility either by itself or in other and different relations, the inventions are distinct. When these factors cannot be shown, such inventions are not distinct.

See M.P.E.P. §806.05(c).

It is submitted that the first requirement for two-way distinctness is not established herein. The combination in each claim requires the particulars of the subcombination, i.e., the molded element. The combination claims are dependent upon the subcombination product claims and the subcombination products are an essential distinguishing feature of the combination products.

It is respectfully submitted that the relationship between the claimed subject matter when properly characterized does not provide a basis for restriction herein. Thus, this restriction requirement should be withdrawn.

With respect to the process of making claim, applicants direct the attention of the Examiner to MPEP § 821.04 which states that:

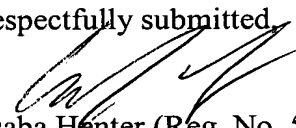
[I]f the elected invention is directed to the product and the claims directed to the product are subsequently found patentable, process claims which either depend from or include all the limitations of the allowable product will be rejoined.

This withdrawn claim is a process claims that includes all the limitations of the product claims. Thus, upon allowance of the product claims, rejoinder of this claim is mandated by the rules.

Furthermore, applicants in view of the MPEP's encouragement, although not requirement, to enter rejoinable claims at an early stage of prosecution to expedite prosecution, presented this withdrawn claim in the first Reply to substantive Examination. Thus, the withdrawal of this claim from consideration at this point from prosecution only frustrates this purpose since its eventual rejoinder is mandated by the rules.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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